

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JAY L. LAMB and SHARI D.
HULTBERG,

Plaintiffs,

v.

MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.;
CHICAGO TITLE INSURANCE
COMPANY, LSI DIVISION; THE BANK
OF NEW YORK MELLON TRUST
COMPANY, N.A., *F/K/A* THE BANK OF
NEW YORK TRUST COMPANY, N.A.
AS SUCCESSOR TO JP MORGAN
CHASE BANK N.A., AS TRUSTEE FOR
RAMP 2004RSS6; and GMAC
MORTGAGE, LLC,

Defendants.

CASE NO. C10-5856 RJB

ORDER GRANTING CHICAGO
TITLE INSURANCE COMPANY,
LSI DIVISION'S MOTION TO
DISMISS

This matter comes before the Court on Defendant Chicago Title Insurance Company, LSI
Division's motion for an order dismissing Plaintiffs' amended verified complaint for failure to

1 state a claim. Dkt. 50. The Plaintiffs have not filed a response. The Court has considered the
2 motion and the record herein.

3 On November 18, 2011, this Court dismissed Plaintiffs' claims against Defendants
4 Bank of New York Mellon Trust Company, National Association/ f/k/a Bank of New York
5 Trust Company, N.A., as Successor to JP Morgan Chase Bank N.A., as Trustee for RAMP
6 2004RS6 (Bank of New York); Mortgage Electronic Registration Systems, Inc. (MERS); and
7 GMAC Mortgage, LLC (GMAC). Dkt. 49. Plaintiffs' claims were held to be frivolous and
8 without merit. *Id.* The remaining Defendant, Chicago Title Company, LSI Division, now moves
9 for similar relief. Plaintiffs have failed to respond.

10 On July 21, 2011, Plaintiffs filed an Amended Verified Complaint. Dkt. 30. The
11 amended complaint alleges the following claims for relief: (1) breach of contract, apparently for
12 Defendants' failure to answer a qualified written request, as is required by the Real Estate
13 Settlement Procedures Act (RESPA), 12 U.S.C. § 2605(e); (2) violation of the Fair Debt
14 Collection Practices Act (FDCPA), 15 U.S.C. § 1692, et seq., for failing to verify the alleged
15 debt and for failing to offer to validate the debt; (3) violation of the Fair Credit Reporting Act
16 (FCRA), 15 U.S.C. § 1608, for erroneously reporting the alleged debt/obligation on Plaintiffs'
17 credit reports; (4) foreclosure of an incorrect Note; (5) wrongful foreclosure for failure to file a
18 tax return and statement showing that Plaintiffs' property was acquired as part of an asset pool;
19 (6) lack of standing to foreclose because the Note at issue is a non-negotiable security; (7) failure
20 to comply with the Washington Deed of Trust Act (DTA), RCW 61.24, because the Deed of
21 Trust was assigned to The Bank of New York twenty-three days before the Trustee's sale
22 occurred; (8) slander of title, based upon Defendants' recording of the Notice of Trustee's Sale;
23 (9) negligence for recording the Notice of Trustee's Sale; (10) declaratory relief, on the basis that
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1 the Mortgage Electronic Registration System (MERS) could not serve as a beneficiary of the
2 Note; and (11) injunctive relief for material violation of the DTA. Dkt. 30, at 5-10.

3 In this Court's previous Order (Dkt. 49), each of these claims were addressed and found
4 to be without merit. Further, none of these claims are specifically addressed to the conduct of
5 Chicago Title Company.


6 Chicago Title Company was the trustee in the nonjudicial foreclosure of the subject real
7 property. As noted in the previous Order, Chicago Title Company was appointed successor
8 trustee by an appointment document recorded on April 1, 2009 under Kitsap County Auditor's
9 File Number ("AFN") 200904010085. Dkt. 49 pp. 6. On May 7, 2009, Chicago Title Company
10 recorded the notice of trustee's sale under AFN 200905070209. Dkt. 49 pp. 7. Chicago Title
11 Company conducted the November 20, 2009 trustee's sale and recorded the resulting trustee's
12 deed on December 14, 2009 under AFN 20091214055. *Id.*

13 As detailed in the Court's previous Order, the conduct of Chicago Title Company does
14 not support a claim of liability under any of the asserted causes of action. See Dkt. 49 pp. 7-12.

15 Accordingly, it is hereby **ORDERED**:

16 Defendant Chicago Title Insurance Company, LSI Division's Motion to Dismiss
17 (Dkt. 50) is **GRANTED**. The claims against Defendant Chicago Title Insurance Company, LSI
18 Division are **DISMISSED WITH PREJUDICE**. There remaining no further claims, the action
19 is **DISMISSED** in its entirety. The Order to Show Cause (Dkt. 53) is **STRICKEN** as **MOOT**.

20 Dated this 3rd day of January, 2012.

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23 ROBERT J. BRYAN
24 United States District Judge